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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John P. Atkinson, Dennis Hourcade, and Malgorzata Krych

Serial No: 08/126,505

Art Unit: 1647

Filing date: September 24, 1993

Examiner: L. Spector

For: MODIFIED CR1 ANALOGUES

FAX RECEIVED

JUN 13 2003

Assistant Commissioner
for Patents
Washington, D.C. 20231

PETITIONS OFFICE

PETITION FOR URGENT REVIEW OF EXAMINER'S ACTION

Sir:

The Board issued a decision in this application on February 3, 2003. It is the understanding of the undersigned that the examiner had examined only certain elected species, and that the rejections of the claims of these species had been reversed on appeal. The application was then remanded to the examiner. On June 2, 2003, the examiner mailed a document with an extremely short date to respond of one month, **EXPIRING ON JULY 2, 2003**, requiring applicants to cancel the non-elected claims for the case to proceed to issuance.

The claims as originally filed in this case, claims 1-34, were restricted into two groups in the office action mailed June 14, 1994. Applicants elected to prosecute group I, claims 1-32. Applicants elected as the species for initial prosecution CR1; explicitly retaining their right to have the remaining species examined upon allowance of the claims to the elected species. See Amendment dated December 14, 1994.

It is the undersigned's belief that when the claims to the elected species were determined to be patentable over the prior art by the Board of Appeals, that the examiner should then have examined the remainder of the claims. In a telephone interview, the examiner advised the


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undersigned that this was not required. A telephone call to her supervisor, Gary Kunz, was not returned.

It is especially important in a case which has now been pending for **ten years** that the examiner not require cancellation of claims to the non-elected species merely because the claims to the non-elected species have not been previously examined. This is totally contrary to established restriction and election of species law.

It is believed no fee for filing of this petition should be required. However, the Commissioner is authorized to charge any necessary fees to Deposit Order Account No. 50-1868.

Respectfully submitted,



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Date: June 13, 2003
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CERTIFICATE OF FACSIMILE TRANSMISSION (37 CFR 1.8a)

I hereby certify that this Request is being facsimile transmitted to the Office of Petitions, along with any paper referred to as being attached or enclosed, on the date shown below.

Date: June 13, 2003


Pam Turnbough

ATL1 #581072 v1